



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-1069]

RIN 1625-AA00

Safety Zones within the Captain of the Port New Orleans Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes temporary safety zones for multiple locations and dates within the Captain of the Port New Orleans' zone. These safety zones are necessary to protect persons and vessels from potential safety hazards associated with fireworks displays on or over federal waterways. Entry into these zones is prohibited unless specifically authorized by the Captain of the Port New Orleans or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number

using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Commander (LCDR) James Gatz, Sector New Orleans, at (504) 365-2281 or James.C.Gatz@uscg.mil.

If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

BNM	Broadcast Notice to Mariners
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
LNM	Local Notice to Mariners
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-1069] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-1069) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a

Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

Safety zones are proposed during the following five (5) individual marine events:

1) New Orleans Navy Week is a single, non-repeating fireworks event. This event is scheduled to occur on April 27, 2015, on the Lower Mississippi River in New Orleans, Louisiana. The sponsor for this event applied for a marine event permit. The permit application is currently under review but the Coast Guard believes that additional safety measures in the form of a temporary safety zone will be necessary for safety of navigation during the event. There is no regulatory history for this event.

2) The Hosts Global fireworks event is an annually-occurring event which occurs in late April on the Lower Mississippi River in New Orleans, Louisiana. The sponsor for this event applied for a marine event permit. The permit application is currently under review but the Coast Guard believes that additional safety

measures in the form of a temporary safety zone will be necessary for safety of navigation during the event. The sponsor applied for the 2014 occurrence of this event and the permit was approved. A temporary safety zone was enforced through actual notice for the 2014 occurrence.

3) The Madisonville 4th of July fireworks display is an annually-occurring event which occurs on July 4 each year in the Tchefuncta River near Madisonville, Louisiana. The sponsor for this event applied for a marine event permit. The permit application is currently under review but the Coast Guard believes that additional safety measures in the form of a temporary safety zone will be necessary for safety of navigation during the event. The sponsor for this event applied for a marine event permit in 2014 but the event was cancelled by the fireworks provider due to short notice on the sponsor's part.

4) The Mandeville City Seafood Festival is an annually-occurring fireworks event that occurs on July 4 each year at Fountainebleau State Park in Mandeville, Louisiana. The sponsor for this event applied for a marine event permit. The permit application is currently under review but the Coast Guard believes that additional safety measures in the form of a temporary safety zone will be necessary for safety of navigation during the event. There is no other regulatory history for this event.

5) The Mandeville Lakefront fireworks show is a single event which is scheduled to occur July 4, 2015, in Mandeville, Louisiana. The sponsor for this event applied for a marine event permit. The permit application is currently under review but the Coast Guard believes that additional safety measures in the form of a temporary safety zone will be necessary for safety of navigation during the event. There is no regulatory history for this event.

Upon initial review of the details for each of these events, the Coast Guard determined that additional safety measures will be necessary.

C. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1; 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

The Coast Guard has determined that temporary safety zones are necessary to promote the safety of life on navigable waterways within the COTP New Orleans Zone during these events.

D. Discussion of Proposed Rule

The Coast Guard proposes to establish five temporary safety zones within the Captain of the Port (COTP) New Orleans Zone between April 27, 2015 and July 4, 2015.

The events to be covered by this proposed rule will be

enforced on the respective dates listed in the table below.

Item Number	Name of Event	Date and Location
1	New Orleans Navy Week	Date: April 27, 2015 Location: the entire width of the Lower Mississippi River between MM 94 and MM 96 Above Head of Passes
2	Hosts Global	Date: April 28, 2015 Location: the entire width of the Lower Mississippi River between MM 94 and MM 96 Above Head of Passes
3	Madisonville 4 th of July	Date: July 4, 2015 Location: the entire width of the Tchefuncta River between the confluence of the Tchefuncta River and

		Lake Pontchartrain, extending one mile north
4	Mandeville City Seafood Festival	Date: July 4, 2015 Location: 350 feet in all directions from the end of the Fountainbleau State Park Pier in Lake Pontchartrain
5	Mandeville Lakefront Fireworks	Date: July 4, 2015 Location: 350 feet in all directions from the fireworks barge, which will be positioned offshore of Mandeville, LA in Lake Pontchartrain.

The COTP New Orleans will inform the public through broadcast notices to mariners (BNM) and local notices to mariners (LNM) of the enforcement periods for the safety zones as well as any changes in the planned schedules. Mariners and other members of the public may also contact Coast Guard Sector New Orleans Command Center to inquire about the status of the safety zones,

at (504) 365-2200.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. These temporary safety zones will restrict navigation on the Lower Mississippi River in the vicinity of New Orleans, Louisiana, the southern end of the Tchefuncta River near Madisonville, Louisiana, and Lake Pontchartrain in vicinity of Mandeville, Louisiana. No safety zone will be established for longer than one hour. Due to the limited scope and short duration of each temporary safety zone, the impacts on routine navigation are expected to be minimal.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the

potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the following waterways on the listed dates: The Lower Mississippi River in New Orleans, Louisiana on April 27, 2015 and April 28, 2015; the Tchefuncta River near Madisonville, Louisiana on July 4, 2015, and the north shore of Lake Pontchartrain in the vicinity of Mandeville, LA on July 4, 2015. The Coast Guard certifies under 5 U.S.C 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it is limited in scope and each temporary safety zone will only be in effect for approximately one hour on one day. Before enforcement, COTP New Orleans will issue maritime advisories widely available to users of the impacted waterways and will make notifications to the public through marine band radio when the temporary safety zones are being enforced. Additionally, deviation from this rule may be requested and will be considered on a case by case basis by

COTP New Orleans or a COTP New Orleans designated representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with

Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing temporary safety zones in the Lower Mississippi River, Tchefuncta River, and Lake Pontchartrain. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record-keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T08-1069 is added to read as follows:

§ 165.T08-1069 Safety Zones, Captain of the Port New Orleans Zone, LA

(a) Locations. The following areas are safety zones:

(1) All waters of the Lower Mississippi River from mile marker 94 to mile marker 96 above Head of Passes, New Orleans, LA. This location will be used for the New Orleans Navy Week and Hosts Global events.

(2) All waters of the Tchefuncta River from the confluence of the Tchefuncta River and Lake Pontchartrain, extending one mile north into the Tchefuncta River, Madisonville, LA. This location will be used for the Madisonville Fourth of July event.

(3) All waters of Lake Pontchartrain extending 350 feet in all directions from the end of the Fountainbleau State Park Pier in

Mandeville, LA. This location will be used for the Mandeville City Seafood Festival.

(4) All waters of Lake Pontchartrain extending 350 feet in all directions from a fireworks barge located offshore of Mandeville, LA. This location will be used for the Mandeville Lakefront Fireworks event.

(b) Effective Dates and Enforcement Periods. This rule is effective during five individual events occurring on four separate dates from April 27, 2015 through July 4, 2015. The temporary safety zones will be enforced during the following dates and times:

(1) April 27, 2015, in the evening for one hour or less in the location noted in section a.1.

(2) April 28, 2015, in the evening for one hour or less in the location noted in section a.1.

(3) July 4, 2015, in the evening for one hour or less in the location noted in section a.2.

(4) July 4, 2015, in the evening for one hour or less the locations noted in section a.3 and a.4.

(c) Regulations.

(1) In accordance with the general regulations in §165.23 of this part, entry into these zones is prohibited unless specifically

authorized by the Captain of the Port (COTP) New Orleans or designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard assigned to units under the operational control of Sector New Orleans.

(2) Persons and vessels requiring deviation from this rule must request permission from the COTP New Orleans or a COTP New Orleans designated representative. They may be contacted on VHF-FM Channel 16 or 67, or through Coast Guard Sector New Orleans at 504-365-2200.

(3) Persons and vessels permitted to deviate from this rule must transit at the slowest safe speed and comply with all lawful directions issued by the COTP New Orleans or designated representative.

(d) Information Broadcasts. The COTP New Orleans or a COTP New Orleans designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zones as well as any changes in the planned schedule.

Dated: March 4, 2015

P. C. Schiffflin
Captain, U.S. Coast Guard
Captain of the Port New Orleans.

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3/25/2015]